UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,311	07/23/2003	Greg Schmid	51263-00261 USPT	8387

24238   7590   04/29/2005

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EXAMINER
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ART UNIT	PAPER NUMBER
2642	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *23 July 2003*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-6* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-6* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on *23 July 2003* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some *   c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/16/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-6 are pending in the application for examination.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created

doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11

F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,*

418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used

to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground provided the conflicting application or patent is shown to be commonly owned

with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a

terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with

37 CFR 3.73(b).

The claimed invention in the instant application is fully disclosed in the patent and

it is broader than the claimed invention in the U.S. Patent numbers 6,483,912 and

6,748,070. No new invention, or new improvement is being claimed in the instant

application. Applicant is now attempting to claim broadly that which had been previously

described in more detail in the claims of the patent (In re Van Ornum, 214 USPQ 761

CCPA 1982).

Claims 1-6 are rejected under the judicially created doctrine of obviousness-type

double patenting as being unpatentable over claims 1-3 of U. S. Patent No. 6,879,671

since the claims, if allowed, would improperly extend the "right to exclude" already

granted in the patent. Although the conflicting claims are not identical, they are not

patentably distinct from each other because the context of the claimed invention is

similar to the context of the cited claim of the U.S. patent.

The subject matter claimed in the instant application is fully disclosed in the

patent and is covered by the patent since the patent and the application are claiming

common subject matter as follows: a system and method for providing secure

communication of a voice call placed across a PSTN through a telephony resource,

wherein a voice call is understood to refer to a call using a bearer service that is circuit

mode, with either 64Kbps information transfer rate or 64Kbps information transfer rate

adapted to 56Kbps, that uses unrestricted or restricted digital information transfer

capability.

Conclusion

3.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

The following patents are cited to further show the state of the art in general:

U.S. Pat. No. 5,490,212

U.S. Pat. No. 5,946,386

U.S. Pat. No. 6,098,172

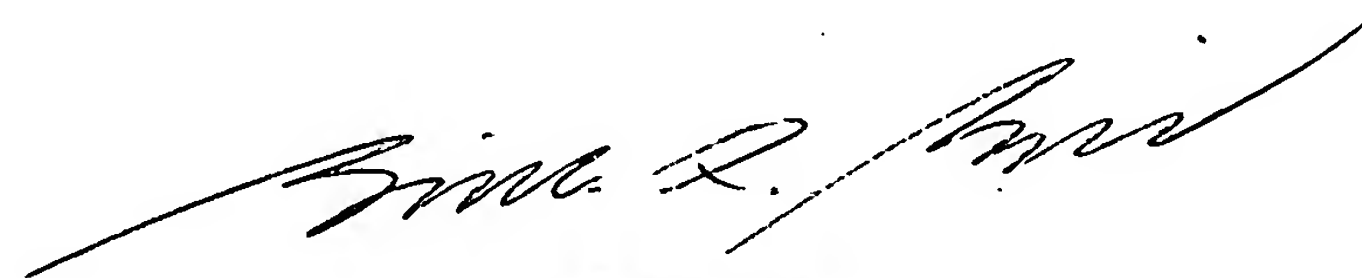U.S. Pat. No. 6,226,372

U.S. Pat. No. 6,226,751

U.S. Pat. No. 6,320,948

4.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (571) 272-7482. The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 and for formal communications intended for entry (please label the response "EXPEDITED PROCEDURE") or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

22 Apr 2005

BING Q. BUI
PRIMARY EXAMINER